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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KEITH I. SCHORR and SUSAN
SCHORR, in their own right and as personal
representatives of the Estate of RYAN K. SCHORR,

Plaintiffs,

v.

WEST SHORE REGIONAL POLICE
DEPARTMENT, HOWARD DOUGHERTY,
CUMBERLAND COUNTY, ROBERT GORIL
and HOLY SPIRIT HOSPITAL,

Defendants.

JURY TRIAL DEMANDED

NO.: 1:CV-01-0930

m. J. Mansueto

**DEFENDANT CUMBERLAND COUNTY'S ANSWER WITH
AFFIRMATIVE DEFENSES TO PLAINTIFFS' AMENDED COMPLAINT**

I. NATURE OF ACTION, JURISDICTION AND VENUE

1. Denied. This paragraph states legal conclusions to which no response is required.
2. Denied. This paragraph states legal conclusions to which no response is required.
3. Denied. This paragraph states legal conclusions to which no response is required.
4. Denied. This paragraph states legal conclusions to which no response is required.

II. THE PARTIES

5. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 5 and are therefore denied with strict proof demanded at trial.

6. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 6 and are therefore denied with strict proof demanded at trial.

7. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 7 and are therefore denied with strict proof demanded at trial.

8. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 8 and are therefore denied with strict proof demanded at trial.

9. Admitted.

10. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 10 and are therefore denied with strict proof demanded at trial.

11. Admitted.

III. MATERIAL FACTUAL ALLEGATIONS

12. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 12 and are therefore denied with strict proof demanded at trial.

13. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 13 and are therefore denied with strict proof demanded at trial.

14. Denied. This paragraph states legal conclusions to which no response is required.

15. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 15 and are therefore denied with strict proof demanded at trial.

16. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 16 and are therefore denied with strict proof demanded at trial.

17. Denied. This paragraph states legal conclusions to which no response is required.

18. Denied. This paragraph states legal conclusions to which no response is required.

19. Denied. This paragraph states legal conclusions to which no response is required.

20. Denied. This paragraph states legal conclusions to which no response is required.

21. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 21 and are therefore denied with strict proof demanded at trial.

22. Denied.

23. Denied.

24. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 24 and are therefore denied with strict proof demanded at trial.

25. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 25 and are therefore denied with strict proof demanded at trial.

26. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 26 and are therefore denied with strict proof demanded at trial.

27. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 27 and are therefore denied with strict proof demanded at trial.

28. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 28 and are therefore denied with strict proof demanded at trial.

29. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 29 and are therefore denied with strict proof demanded at trial.

30. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 30 and are therefore denied with strict proof demanded at trial.

31. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 31 and are therefore denied with strict proof demanded at trial.

32. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 32 and are therefore denied with strict proof demanded at trial.

33. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 33 and are therefore denied with strict proof demanded at trial.

34. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 34 and are therefore denied with strict proof demanded at trial.

35. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the trust or veracity contained within the allegations of paragraph 35 and are therefore denied with strict proof demanded at trial.

36. Denied. This paragraph states legal conclusions to which no response is required.

COUNT I

**PURSUANT TO 42 U.S.C. §1983
Plaintiffs v. The Commission And Dougherty**

37. Defendant Cumberland County incorporates herein by reference paragraphs 1 through 36 as though each and every allegation were set forth fully at length herein.

38-47. These paragraphs are directed to another defendant and no response is required by answering defendant Cumberland County.

COUNT II

**PURSUANT TO 42 U.S.C. §1983
Plaintiffs v. Defendants Cumberland County,
Robert Goril and Holy Spirit Hospital**

48. Defendant Cumberland County incorporates herein by reference paragraphs 1 through 47 as though each and every allegation were set forth fully at length herein.

49. Denied.

50. Denied.

51. Denied.

COUNT III

**NEGLIGENCE (PENDENT JURISDICTION)
Plaintiffs v. Holy Spirit Hospital**

52. Defendant Cumberland County incorporates herein by reference paragraphs 1 through 51 as though each and every allegation were set forth fully at length herein.

53-54. These paragraphs are directed to another defendant and no response is required by answering defendant Cumberland County.

COUNT IV

PURSUANT TO THE REHABILITATION ACT OF 1973
Plaintiffs v. The Commission, Dougherty, Cumberland County and Goril

55-61. This Count has been voluntarily withdrawn and/or dismissed by the Court and no answer is required by answering defendant Cumberland County.

COUNT V

PURSUANT TO TITLE II OF THE ADA
Plaintiffs v. The Commission, Cumberland County, Dougherty and Goril

62-68. This Count has been voluntarily withdrawn and/or dismissed by the Court and no answer is required by answering defendant Cumberland County.

COUNT VI

SURVIVAL
Plaintiffs v. All Defendants

69-71. This Count has been voluntarily withdrawn and/or dismissed by the Court and no answer is required by answering defendant Cumberland County.

COUNT VII

WRONGFUL DEATH
Plaintiffs v. All Defendants

72-74. This Count has been voluntarily withdrawn and/or dismissed by the Court and no answer is required by answering defendant Cumberland County.

V. JURY DEMAND

75. Denied. This paragraph states legal conclusions to which no response is required.

VII. PRAYER FOR RELIEF

WHEREFORE, Defendant Cumberland County demands that Plaintiff's Amended Complaint be dismissed with prejudice and such other relief as the Court deems just and proper.

AFFIRMATIVE DEFENSES

76. Defendant Cumberland County incorporates herein by reference paragraphs 1 through 75 as though each and every allegation were set forth fully at length herein.

77. Plaintiffs' Amended Complaint fails to state a claim against Defendant Cumberland County in which relief may be granted.

78. Plaintiffs' claims may be barred in whole or in part by the applicable statute of limitations, including among others 42 Pa. C.S.A. §5524, and 40 P.S. §1301.605.

79. Under Pennsylvania law, parents do not have a recognized cause of action for loss of consortium and said claims are not sustainable.

80. Defendant Cumberland County is qualifiedly immune from damages in the above civil action.

81. Defendant Cumberland County is immune from civil liability in the above matter by operation of the Pennsylvania Medical Health Procedures Act, 50 P.S. §7107, *et seq.*, §7114(a).

82. Plaintiffs' claims may be barred by a release.

83. Answering Defendant hereby raises the affirmative defenses of Section 602 and 606 of the Health Care Services Malpractice Act of 1975, *as amended*.

84. Plaintiffs' claims may be barred by the doctrines of estoppel, collateral estoppel and *res judicata*.

VIII. DEMAND FOR JURY TRIAL

86. Defendant Cumberland County demands a trial by jury on all issues.

WHEREFORE, Defendant Cumberland County demands that Plaintiff's Amended Complaint be dismissed with prejudice and such other relief as the Court deems just and proper.

Respectfully submitted,

METTE, EVANS & WOODSIDE

By: _____


John F. Yaninek, Esquire

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(717) 232-5000

Attorneys for Defendant Cumberland County

DATE: February 10, 2003

CERTIFICATE OF SERVICE

I, JOHN F. YANINEK, ESQUIRE, hereby certify that I am serving a copy of the foregoing document upon the person(s) and in the manner indicated below, which service satisfies the requirements of the Federal Rules of Civil Procedure, by depositing a copy of same in the United States Mail at Harrisburg, Pennsylvania, with first-class postage, prepaid, as follows:

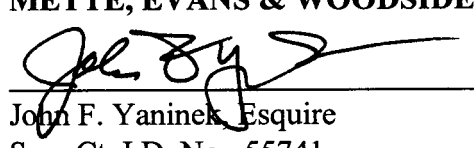
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